

DISCLAIMER

This electronic version of an SCC order is for informational purposes only and is not an official document of the Commission. An official copy may be obtained from the [Clerk of the Commission, Document Control Center](#).

APPLICATION OF

**THE WATERWORKS COMPANY OF
FRANKLIN COUNTY**

CASE NO. PUE000093

To change rates and charges

REPORT OF ALEXANDER F. SKIRPAN, JR., HEARING EXAMINER

June 13, 2000

On May 19, 2000, the Commission Staff, by counsel, filed a Motion to Dismiss the application of Robert A. Winney d/b/a The Waterworks Company of Franklin County ("the Company"). In support of the motion, the Staff states that the Company was directed by the Commission's April 14, 2000, Order for Notice and Hearing ("Order for Notice and Hearing"), to mail notice to its customers and local officials by May 3, 2000. The Order further directed the Company to file with the Commission a certificate of the mailing on or before May 10, 2000. The Commission Staff has received no correspondence from the Company which indicates that copies of the Order were mailed to customers and local officials.

By Ruling dated May 23, 2000, the Company was given an opportunity to respond to the Staff's Motion to Dismiss.

In a letter dated June 5, 2000, Mr. Winney indicated that he had written Staff asking clarification regarding hearing dates and notice requirements. Mr. Winney included a copy of the letter he claims he mailed to Staff and asserted that "as of today we've not received any answer." The enclosed letter is dated April 25, 2000, and refers to a Case No. PUE990619. There is no record of Mr. Winney's letter dated April 25, 2000, being received by the Clerk's Office, the Office of General Counsel, or the Office of Hearing Examiners prior to June 5, 2000.

Nonetheless, assuming Mr. Winney, mailed his letter seeking clarification on April 25, 2000, and assuming the letter actually refers to Mr. Winney's current case, Case No. PUE000093, Mr. Winney cannot contend, successfully, he was uninformed as to either the hearing dates or notice requirements for this case. On April 28, 2000, Mr. Winney filed a request for an extension of procedural dates established by the Commission's Order for Notice and Hearing. In response, a Hearing Examiner's Ruling, dated May 1, 2000 ("Ruling"), directed Mr. Winney to: (i) make the documents prescribed in paragraph (8) of the Commission's Order for Notice and Hearing available on or before May 8, 2000; and (ii) report by May 8, 2000, all customers who made payments for service for the second quarter of 2000 at a rate in excess of \$67.50 as prescribed in paragraph (5) of the Commission's Order for Notice and Hearing. Finally, the Ruling directed "[t]hat in all other respects the procedural schedule as established by the Commission's [Order for Notice and Hearing] shall remain in full force and effect."

Among other things, the Commission's Order for Notice and Hearing required the following:

(6) A public hearing be held on this application beginning at 10:00 a.m. on July 11, 2000, in the Commission's courtroom, Tyler Building, Second Floor, 1300 East Main Street, Richmond, Virginia.

...

(17) On or before May 3, 2000, the Company shall mail by first class mail, postage prepaid, a copy of this Order to all customers, including customers paying the availability fee, to the County Administrator of Franklin County, and to the Chairman of the Board of Supervisors of Franklin County.

(18) On or before May 10, 2000, the Company shall file with the Clerk a certificate of the mailing required in paragraph (17). The certificate shall include the complete name and mailing address of all customers receiving a copy of the notice.

In his response, Mr. Winney failed to provide any evidence that he attempted to comply with the Commission's Order for Notice and Hearing. Indeed, in his letter dated June 5, 2000, Mr. Winney states that he will publish notice as soon as he receives clarification as to the dates for the hearing. Mr. Winney received the requested clarification in the Hearing Examiner's Ruling dated May 1, 2000. Yet, Mr. Winney still has not provided the notice ordered by the Commission.

Consequently, I find that the Company failed to comply with the public notice requirement set forth in the Commission's Order for Notice and Hearing and that the Company failed to comply with its requirement to file a certificate of mailing of the notice as prescribed by the Commission's Order for Notice and Hearing. Therefore, Staff's Motion to Dismiss should be granted.

Accordingly, **I RECOMMEND** that the Commission enter an order dismissing this matter from the Commission's docket of active cases, and directing the Company to continue to bill its customers in accordance with its existing Commission-approved rates and tariffs.

COMMENTS

The parties are advised that pursuant to Rule 5:16(e) of the Commission's Rules of Practice and Procedure,¹ any comments to this Report must be filed with the Clerk of the Commission in writing, in an original and fifteen copies, within fifteen (15) days from the date hereof. The mailing address to which any such filing must be sent is Document Control Center, P. O. Box 2118, Richmond, Virginia 23218. Any party filing such comments shall attach a

¹ 5 VAC 5-10-420 F.

certificate to the foot of such document that copies have been mailed or delivered to all other counsel of record and to any party not represented by counsel.

Respectfully submitted,

Alexander F. Skirpan, Jr.
Hearing Examiner